



# Memorandum

**TO:** PLANNING COMMISSION**FROM:** Stephen M. Haase**SUBJECT:** SEE BELOW**DATE:** July 17, 2002

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ApprovedDate:

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**COUNCIL DISTRICT:** Citywide**SNI AREAS:** N/A

**SUBJECT: AMENDING TITLE 20 OF THE SAN JOSE MUNICIPAL CODE TO MODIFY THE INDUSTRIAL DISTRICTS LAND USE REGULATIONS; DELETE, MODIFY AND ADD DEFINITIONS PERTAINING TO EDUCATIONAL USES AND RECREATIONAL USES; AND TO INCLUDE MINOR MODIFICATIONS TO THE COMMERCIAL LAND USE REGULATIONS**

## **RECOMMENDATION**

Planning Staff recommends that the Planning Commission forward to City Council a recommendation to adopt the proposed ordinance amending Title 20, the Zoning Code, of the San Jose Municipal Code as it pertains to the requirement for certain enumerated industrial uses located in the Mixed Industrial Overlay General Plan land use designation and other modifications identified below.

## **BACKGROUND**

In 1995, in order to preserve a supply of land devoted exclusively for industrial uses and to maintain its attractiveness, the San Jose 2020 General Plan Land Use/Transportation Diagram designated non-exclusive industrial areas with a Mixed Industrial Overlay (MIO). As part of the Zoning Code Update approved by City Council in December 2000, the land use regulations for the industrial districts integrated a requirement for the MIO General Plan designation for certain uses and identified them as a conditional use. Without the MIO, the use is not permitted. The integration of the General Plan requirement serves as a tool for consistent implementation of the MIO designation. During the 2001 and 2002 General Plan Reviews, City Council had further

ensured the preservation of over 600 acres of light and heavy industrial land for strictly industrial uses by removing the MIO from said lands to strengthen and protect light and heavy industrial lands designated on the General Plan.

Staff has recognized the decrease in the amount of industrial land designated with the MIO General Plan designation and the lessening of opportunities for some uses to find suitable locations. This recognition has prompted the need for reassessment of the industrial land use regulations in the Zoning Code to identify where opportunities to locate can be created. As part of this process, staff has identified other areas in the Code for modification.

## **ANALYSIS**

In reassessing the existing industrial land use regulations, the proposed changes can be summarize in four main categories: 1) Entertainment and Recreation Related Uses, 2) Commercial Support Uses, 3) Educational Uses, and 4) Other Changes. Some uses are proposed to be allowed by right in certain zones if specific criteria are met; some uses are proposed to be deleted from consideration in certain industrial zoning districts, and other uses are being proposed for consideration in certain industrial district without requiring the MIO General Plan designation (see attached Industrial Land Use Table 20-110). Staff has also identified the need for clarification of some regulations through creation as well as modification of definitions.

### *Entertainment and Recreation Related Uses*

Various changes are proposed to the Entertainment and Recreation Related Uses category. First, staff is proposing to delete the currently enumerated uses of "swim and tennis club", "equestrian and riding club", "outdoor theater", and "cemetery" from the industrial districts land use regulations due to the general issue of land use compatibility and conflict with the intent and purpose of industrial zoned lands.

Second, to accommodate recreation related uses in the industrial park areas of the City, staff is proposing to replace the reference the "health club and gymnasium" in the Commercial Support Use with "recreation commercial/indoor". This would accommodate for any type of facility in the IP Industrial Park zoning district within the parameters of the Commercial Support use which include uses such as retail, personal service establishments, financial institutions, public eating establishments, and medical clinics. Uses in the Commercial Support use are limited in square footage and must locate in a building with a primary use allowed in the IP Industrial Park zoning district. No permit is required for Commercial Support uses. Consistent with this change, staff is also proposing to delete the current definition of "gymnasium" and expand the definition of "recreation commercial/indoor" to include to health clubs and gymnasiums.

Third, the "performing arts production/rehearsal space" use is currently identified as a conditional use in all industrial districts for properties with a MIO General Plan land use designation. Staff has identified this use as being limited by the current requirement of the MIO designation. Staff is proposing to delete the MIO requirement for this use from the LI Light

Industrial zoning district to allow more flexibility in locating performing arts/rehearsal uses, which often have spatial needs typical of buildings in the light industrial areas.

### *Commercial Support Uses*

"Personal service establishments" and "financial institution", are currently listed as a conditional use in all industrial zoning districts for properties with a MIO General Plan land use designation. There is little demand for personal service uses to locate in the light and heavy industrial areas, and therefore staff is proposing to prohibit this use in the LI and HI Industrial districts and retain it in the IP Industrial Park zoning district under the allowance of Commercial Support uses. Staff is also proposing to eliminate "financial institution" in the IP Industrial Park zoning district and simply allow them under as part of the Commercial Support uses with the limitations mentioned previously.

### *Educational Uses*

A non-industrial use that has traditionally put a lot of pressure on industrial lands, especially during down economic times, are the educational uses, including post secondary schools and trade and vocational schools. To relieve pressure from the exclusive industrial lands, staff is proposing that "post secondary schools" be added as a conditional use in the IP Industrial Park zoning districts. "Post secondary schools" would continue to be prohibited in the LI and HI Industrial zoning districts.

Additionally, staff is proposing to remove the MIO General Plan land use designation requirement for "trade and vocational schools" and make it a straight conditional use in the LI Light Industrial zoning district. This change would allow more opportunities for locating this use within the existing light industrial areas. Additionally, staff proposes to add "trade and vocational schools" as a conditional use in the HI Industrial zoning district, and would continue to prohibit them in the IP Industrial Park zoning district. Many of the trades are industrial in nature and training in such trades is most appropriate in the light and heavy industrial areas.

As part of the changes to the educational land use regulations, staff identified the need to include a definition for both "post secondary school" and "trade and vocational school" to aid in the distinction between the two. Staff proposes to define "post secondary school" as an educational use that is intended to serve as the traditional classroom setting of instruction. The definition of "trade and vocational school" is proposed as an educational use intended to serve as more of the instructional and hands-on type of training that often requires large amounts of space, involves heavy machinery, may have environmental impacts (i.e. noise, vibration, etc.), and are typically found in the heavy industrial areas. Additionally, to recognize the various settings and forms in which learning could occur, a definition for "private instruction" is proposed to be included to capture those educational uses that are neither post secondary or trade or vocational as defined. The proposed definition of "private instruction" includes education for personal or professional enrichment, either through individual classes or certificate programs, and includes but is not limited to driver training, computer training, and training as a medical or dental assistant.

*Other Industrial Land Uses Changes*

Currently, "distribution facility" is a separately enumerated use in the land use regulations. Staff is proposing to combine this use with the "warehouse" use as the two uses are typically integrated with each other. No change is being proposed to the land use regulations for either of these uses.

At present, "hazardous waste facilities" are listed as a conditional use in the LI Light Industrial zoning district for properties with a MIO General Plan land use designation and a conditional use in the HI Heavy Industrial zoning district without the MIO requirement. Given the environmental issues involved with this use, staff proposes to delete the allowance in the LI zoning district and simply retain this use as a conditional use in the HI Heavy Industrial zoning district.

A "plant nursery" is currently prohibited in the IP Industrial Park and LI Light Industrial zoning districts and a conditional use only in the HI Heavy Industrial Zoning District for properties with a MIO General Plan land use designation. Due to the spatial and operational needs of a "plant nursery", staff is proposing to remove the MIO requirement from the HI Heavy Industrial zoning district and allow it as a straight conditional use and to add it as a conditional use in the LI Light Industrial zoning district.

Currently, an "emergency residential shelter" is prohibited from the IP Industrial Park zoning district and is a conditional use in the LI Light Industrial zoning district for properties with a MIO General Plan land use designation. This use has been identified as a use that should be allowed more flexibility in locating and operating in all three of the industrial zoning districts. To accommodate this flexibility, staff is proposing to include the use as a conditional use with a MIO in the IP Industrial Park zoning district, a straight conditional use in the LI Light Industrial zoning district, and retain it as a conditional use with the MIO overlay designation in the HI Heavy Industrial zoning district. The proposed changes are consistent with City Council Policy on Emergency Homeless Shelter Criteria that states a preference for location on lands with a General Plan designation of Combined Industrial/Commercial, Heavy Industrial, or Light Industrial.

Currently, a "common carrier depot" is an enumerated use; however, a "common carrier", which would include such uses as taxis, airport shuttles, and bus yards that do not have passenger facilities, is not unenumerated. Up to now, staff has directed these uses to the districts where storage and maintenance of vehicles are allowed. For clarity staff is proposing to add "common carrier" as a conditional use in the LI Light Industrial Zoning District and allowed by right in the HI Heavy Industrial zoning district.

"Gas or charge station" and "gas or charge station with incidental service and repair" are uses that staff is proposing to include as a conditional use in the IP Industrial Park zoning district for properties with a MIO General Plan land use designation. This proposed change would allow this use more opportunities for locating on industrial zoned lands.

*Commercial Land Use Regulation—Minor Changes*

Staff has also taken this opportunity to make two clarifications to the commercial land use regulations. The currently enumerated use of “auto broker, retail” is proposed for deletion. Staff has realized the inclusion of this use has caused confusion pertaining to the applicability of this use. The “sale of passenger vehicles” as an enumerated use is sufficient to address the retail sale of automobiles and motorcycles. Finally, staff is proposing to include a reference to the existing definition of “personal services” in the land use table for said use for information purposes.

**PUBLIC OUTREACH**

The public outreach for the proposed ordinance included a presentation to various members of the development community on Friday June 28, 2002 at the Department's regularly scheduled Developer's Roundtable meeting. Also, a public outreach meeting was held on July 11, 2002 which was poorly attended despite a large number of outreach notices mailed to members of the industrial development community and other interested parties on June 27, 2002 and e-mailed on July 2, 2002. Low turnout is attributed to lack of controversy associated with these changes. In addition, representative parties were contacted to ensure that no other comments or concerns needed to be communicated. As standard practice, staff posted the staff report and draft ordinance as well as the hearing dates on the Department's website.

**COORDINATION**

Preparation of the proposed ordinance has been coordinated with the City Attorney's Office.

**CEQA**

Exempt, PP02-07-177.

STEPHEN M. HAASE, DIRECTOR  
Planning, Building and Code Enforcement

Attachment

Industrial\_CC Staff Report.doc  
PBCE003/zoningordinance/  
SMH:phs

**Table 20-110  
Industrial Districts  
Land Use Regulations**

Use	Zoning District			Applicable Sections & Notes
	IP	LI	HI	
Industry				
Auction	-	C	C	
Industrial Services	-	P	P	
Laboratory, processing	-	P	P	
Manufacturing and Assembly				
Light	P	P	-	
Medium	-	P	P	
Heavy	-	-	P	
Research and Development	P	-	-	
Catalog and mail order	P	P	-	
Construction/Corporation yard	-	C	C	
Establishment for the repair, cleaning of household, commercial or industrial equipment or products	-	P	P	
Extraction of minerals from the ground, including quarrying	-	-	C	
Hazardous materials storage	-	C	C	
Hazardous waste facility	-	-	C	
Junkyard	-	-	C	
Miniwarehouse/ministorage	-	P	P	
Outdoor uses or storage	-	C	P	Section 20.50.210
Private power generation	C	C	C	Note 1
Stockyard, including slaughter	-	-	C	
Warehouse/Distribution Facility	C	P	P	
Wholesale sale establishment	C	P	P	
Additional Uses				
Any use not set forth in Tables 20-30, 20-50, 20-90	-	-	C	
Any use without a permanent fully enclosed building on-site	C	C	C	
Commercial support	P	-	-	Section 20.50.110
General Retail				
Nursery, plant	-	C	C	
Outdoor vending	-	A	A	Part 10, Chapter 20.80
Retail or wholesale commercial entity, single occupant greater than 100,000 gross square feet	CM	CM	-	

**Table 20-110  
Industrial Districts  
Land Use Regulations**

Use	Zoning District			Applicable Sections & Notes
	IP	LI	HI	
Sales, office furniture, industrial equipment, machinery	-	C	-	
Seasonal Sales	P	P	P	Part 14, Chapter 20.80
<b>Education and Training</b>				
Day care center	CM	CM	CM	
School, driving (class A & B license)	-	P	P	
School, post secondary	C	-	-	
School, trade and vocational	-	C	C	
<b>Entertainment and Recreation Related</b>				
Recreation, Commercial/ Indoor	P	CM	CM	Note 8
Performing arts production/rehearsal space	CM	C	CM	
<b>Food Services</b>				
Public eating establishments	P	C	C	Note 8
<b>Health and Veterinary Services</b>				
Emergency ambulance service	CM	CM	CM	
Medical clinic/ out-patient facility	CM	-	-	
<b>General Services</b>				
Crematory	-	CM	C	
Hotel/motel	CM	-	-	
Personal Services	P	-	-	Note 8
Photo processing and developing	P	P	P	
Printing and publishing	P	P	P	
Social Service Agency	C	C	C	
<b>Offices and Financial Services</b>				
Automatic Teller Machine	P	P	P	Section 20.80.200
Financial institution	P	CM	CM	Note 8
Offices, business and administrative	P	-	-	
<b>Public, Quasi-Public and Assembly Uses</b>				
Church/Religious Assembly	CM	CM	CM	
<b>Residential</b>				
Emergency residential shelter	CM	C	CM	Section 20.80.500
Living quarters, custodian, caretakers	-	-	C	Note 2
<b>Drive-Through Use</b>				
Drive-through in conjunction with any use	CM	CM	CM	
<b>Recycling Uses</b>				
Recycling processing facility	C	S	S	
Recycling transfer facility	C	S	S	
Large collection facility	-	-	P	

**Table 20-110  
Industrial Districts  
Land Use Regulations**

Use	Zoning District			Applicable Sections & Notes
	IP	LI	HI	
Reverse vending	A	A	A	
Small collection facility	A	A	A	
<b>Transportation and Utilities</b>				
Common carrier	-	C	P	
Common carrier depot	C	C	C	Note 3
Community television antenna systems	C	C	C	
Communications service exchange	C	C	C	
Off-site, alternating and alternative use parking arrangements	S	S	S	Section 20.90.200
Parking establishment not Permitted in Tables 20.30, 20.50 and 20.90	C	C	C	
Parking establishment, off-street	C	C	C	
Television, radio studio	C	C	C	
Utility facilities, excluding corporation yards, storage or repair yards and warehouses	C	C	C	
Wireless communication antenna	C	C	C	Section 20.80.1900
Wireless communication antenna, building mounted	P	P	P	Section 20.80.1900
<b>Electrical Power Generation</b>				
Base Load Facility	-	-	C	
Stationary Peaking Facility	-	C	C	
Transportable Peaking Facility	-	C	C	
Private Power Generation Facility	C	C	C	
Co-Generation Facility	S	S	S	
<b>Stand-by/Backup</b>				
Facilities that do not exceed noise and air standards	A	A	A	
Facilities that do exceed noise and air standards	C	C	C	
Temporary Stand-by-Backup	A	A	A	
Photovoltaic	P	P	P	Note 5
<b>Vehicle Related Uses</b>				
Gas or charge station	CM	CM	CM	Note 3
Gas or charge station with incidental service and repair	CM	CM	CM	Note 4
Leasing passenger vehicles, pick-up trucks not exceeding twenty-five (25) feet in length, and motorcycles	-	C	-	
Repair and cleaning of vehicles	-	P	P	Note 7



<b>Table 20-110</b> <b>Industrial Districts</b> <b>Land Use Regulations</b>				
Use	Zoning District			Applicable Sections & Notes
	IP	LI	HI	
Sale or lease of commercial trucks, buses, trailers, campers, boats, mobilehomes, construction equipment	-	C	-	
Vehicle wrecking, including sales of parts	-	-	C	

**Notes:**

1. Site must be seven (7) acres or more.
2. Includes associated office.
3. No incidental repair or service. No retail sale of food grocery items or alcoholic beverages may be approved. See Section 20.80.550.
4. Incidental repair includes air conditioning service, carburetor & fuel injection service, electrical service, radiator service, and tune-up, lube, oil change, and smog check, as well as tires, batteries and accessories installation. Does not allow body repair or painting. No retail sale of food grocery items or alcoholic beverages may be approved. See Section 20.80.550.
5. Photovoltaic (PV) systems may be processed through a Permit Adjustment.
6. Intentionally left blank.
7. All vehicle-related repair, service, and accessory or other installation, excepting the cleaning of vehicles, shall be conducted within a fully enclosed building.
8. Public eating establishments; financial institutions; personal service establishments; and recreation, commercial/indoor in the IP district are subject to the limitation of the Commercial Support Use, Section 20.50.110. Public eating establishments in the LI or HI districts are limited to a maximum of 650 gross square feet in size.

**20.50.110 Commercial Support**

Commercial support is Permitted in the IP District subject to the following limitations:

1. Such commercial uses serve the immediate area, and;
2. Such commercial uses are located entirely within buildings occupied by primary uses Permitted in the IP district, and;
3. The sum of all such commercial uses in the buildings occupies no more than five percent (5%) of the gross floor area of any building or no more than 10,000 square feet of any building, whichever is less, and;
4. Such commercial uses are limited to the following:
  - a. Retail
  - b. Recreation, Commercial/Indoor
  - c. Personal service establishment

- d. Public eating establishment
- e. Financial institution
- f. Medical clinic
- g. Amusement game devices, up to nine (9) per business establishment, as an (incident) to one or more of the above enumerated commercial uses.